IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **Crl.R.No.623 of 1992**

DATE OF DECISION: December 14, 2007

INDER SINGH ...PETITIONER

VERSUS

STATE OF HARYANA ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.

PRESENT: MR. R.N. LOHAN, ADVOCATE FOR THE PETITIONES.
MR. S.S. PATTAR, SR.DAG, HARYANA.

ASHUTOSH MOHUNTA, J.(ORAL)

The petitioner is aggrieved by the judgement dated 26.11.1991, passed by Sub Divisional Judicial Magistrate, Narwana and the judgement dated 5.9.1992, passed by Addl. Sessions Judge, Jind vide which he has been convicted under Section 420 IPC and has been sentenced to undergo rigorous imprisonment for 2 years and to pay a fine of Rs.1000/- and in default has further been ordered to undergo imprisonment for 2 months.

The case of the prosecution in brief is that on 11.6.1985, Khazan Singh, complainant made a report to the police to the effect that he had made a payment of Rs.50,000/- for the purchase of tractor to the petitioner Inder Singh. The payment was made on 12.5.1985. It was stated by the complainant that despite making payment of Rs.50,000/-, the tractor was never delivered to him by the petitioner Inder Singh. FIR was registered on the basis of the complaint made by Khazan Singh.

Before the trial Court the prosecution examined 6 witnesses

who deposed that payment had been made to the petitioner. The accused in his statement under Section 313 Cr.P.C. denied to have ever received the payment from Khazan Singh. The petitioner also produced Nathu Ram as DW1.

The trial Court after going through the entire evidence was of the considered opinion that the complainant had advanced a sum of Rs.50,000/- to the petitioner for the purchase of tractor which was never delivered to him. On the basis of the above, the petitioner was convicted under Section 420 IPC and sentenced to undergo R.I. for 2 years. The petitioner was also convicted under Section 406 IPC and was sentenced to undergo R.I. for 1 year. Fine was also imposed on the petitioner.

The petitioner filed an appeal before the Addl. Sessions Judge, Jind who vide his judgement dated 5.9.1992, acquitted the petitioner of the charges under Section 406 IPC, however, the conviction and sentence of the petitioner under Section 420 IPC was upheld.

Learned counsel for the petitioner submits that the incident relates to the year 1985, therefore, the petitioner has suffered the agony of a long and protracted litigation for over 22 years. Learned counsel further submits that there was an inordinate delay in lodging the FIR as the amount is alleged to have been paid to the petitioner on 12.5.1985, whereas the FIR was registered on 11.6.1985. Learned counsel further submits that the petitioner is not a tractor dealer and therefore, there is no question of paying him Rs.50,000/- for the purpose of purchase of tractor.

On the other hand, learned counsel for the State has stated that there was no delay in lodging the FIR, as the payment for the purchase of tractor was made by the complainant on 12.5.1985, and he waited for about

a month for the delivery of the tractor and it is only when the petitioner refused to deliver the same the present FIR was lodged on 11.6.1985. Learned counsel further submits that as both the Courts below have also returned a finding of fact and has convicted the petitioner under Section 420 IPC, therefore, there is no ground to take a lenient view in the case of the petitioner.

Keeping in view the fact that the petitioner is suffering the agony of a long and protracted litigation for the last almost 22 years and that he has now become an old man, therefore, while upholding the conviction of the petitioner under Section 420 IPC, I reduce the sentence of the petitioner to the one already undergone by him. However, the petitioner shall deposit a sum of Rs.20,000/- as compensation before the trial Court within a period of 2 months from the date of this judgement. The trial Court shall give information to the complainant and the complainant shall be entitled to receive the aforementioned compensation of Rs.20,000/-. In case the petitioner fails to deposit the said amount within a period of 2 months then the petitioner shall be taken into custody to serve out the remaining period of his sentence.

Revision petition is accordingly disposed of.

December 14, 2007 **(ASHUTOSH MOHUNTA)**
Gulati **JUDGE**